

91st Legislative Session – 2016

Committee: House Judiciary

Monday, February 22, 2016

P - Present
E - Excused
A - Absent

Roll Call

E DiSanto
P Gibson
P Haugaard
P Hunt
P Johns
P Killer
P Langer
P Latterell
P Peterson (Kent)
P Russell
P Westra
P Stevens, Vice-Chair
P Mickelson, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Representative Mark Mickelson, Chair.

MOTION: TO APPROVE THE MINUTES OF FRIDAY, FEBRUARY 19, 2016.

Moved by: Stevens
Second by: Haugaard
Action: Prevailed by voice vote.

HB 1139: clarify the insurer responsible for work done within a railroad crossing.

Presented by: Representative Mickelson

MOTION: DO PASS HB 1139

Moved by: Johns
Second by: Latterell
Action: Prevailed by roll call vote. (8-0-5-0)

Voting Yes: Haugaard, Hunt, Johns, Killer, Latterell, Peterson (Kent), Stevens, Mickelson

Excused: DiSanto, Gibson, Langer, Russell, Westra

MOTION: PLACE HB 1139 ON CONSENT CALENDAR

Moved by: Johns
Second by: Mickelson
Action: Prevailed by voice vote.

HB 1225: provide for the forfeiture and disposition of certain property utilized in acts of terrorism.

Presented by: Representative Craig
Proponents: Christopher Holton, self
Stephen Gele, self
Amy Wilson, Rapid City, self

MOTION: AMEND HB 1225

1225ra

On page 3, line 11, of the printed bill, delete "factually".

On page 3, line 14, delete "factually".

Moved by: Mickelson
Second by: Johns
Action: Prevailed by voice vote.

MOTION: AMEND HB 1225

1225rb

On page 3, line 4, of the printed bill, delete "and".

On page 3, line 6, after "terrorism" insert:

";

- (4) Any person or entity hindering the prosecution of terrorism; and
- (5) Any person who provided material support or resources to the person or entity who committed the act of terrorism".

On page 3, between lines 15 and 16, insert "The proceeds from a forfeiture and disposition under this Act shall be used to satisfy any judgment for a person injured as a result of the criminal offense under § 22-8-12. In the event that there are multiple judgments of persons injured, the judgments shall be paid on a proportionate basis based on the magnitude of the injury.".

On page 3, line 16, after "of" insert "the remaining".

On page 3, line 16, delete "section" and insert "Act".

On page 4, line 8, after ";" insert "and".

On page 4, line 11, delete "; and" and insert ".".

On page 4, delete lines 12 to 14, inclusive.

Moved by: Hunt
Second by: Peterson (Kent)
Action: Prevailed by voice vote.

MOTION: AMEND HB 1225

1225rc

On page 5, line 9, of the printed bill, delete "five" and insert "three".

Moved by: Johns
Second by: Mickelson
Action: Prevailed by voice vote.

MOTION: DO PASS HB 1225 AS AMENDED

Moved by: Langer
Second by: Mickelson
Action: Prevailed by roll call vote. (12-0-1-0)

Voting Yes: Gibson, Haugaard, Hunt, Johns, Killer, Langer, Latterell, Peterson (Kent), Russell, Westra, Stevens, Mickelson

Excused: DiSanto

MOTION: PLACE HB 1225 ON CONSENT CALENDAR

Moved by: Langer

Action: Died for lack of a second.

HB 1134: provide for access to certain property for the purpose of making surveys.

Presented by: Representative Johns

Proponents: Brett Koenecke, South Dakota Electric Utility Companies
Bret Clanton, Buffalo, self
Sabrina King, Dakota Rural Action
Jeremiah M. Murphy, SD Stockgrowers' Association

MOTION: AMEND HB 1134

1134rb

On page 1 of the printed bill, delete lines 5 to 11, inclusive, and insert:

"

Each person vested with authority to take private property for public use may cause an examination and survey to be made as necessary for its proposed facilities. The person or the person's agents and officers may enter the private property for the purpose of the examination and survey. Any person seeking to cause an examination or survey, where permission for examination or survey has been denied, shall:

- (1) Make a filing with the public utilities commission, whether for a permit under chapter 49-41B or an informational filing regarding the project;
- (2) Give thirty days written notice, including the filing and expected dates of entry, to the owner and any tenant in possession of the private property; and
- (3) Make a payment to the owner, or provide sufficient security for the payment, for any actual damage done to the property by the entry.

This section does not apply to the state or its political subdivisions. This section is in addition to and not in derogation of other existing law."

Moved by: Mickelson
Second by: Gibson
Action: Prevailed by voice vote.

MOTION: DO PASS HB 1134 AS AMENDED

Moved by: Mickelson
Second by: Peterson (Kent)
Action: Prevailed by roll call vote. (12-0-1-0)

Voting Yes: Gibson, Haugaard, Hunt, Johns, Killer, Langer, Latterell, Peterson (Kent), Russell, Westra, Stevens, Mickelson

Excused: DiSanto

MOTION: PLACE HB 1134 ON CONSENT CALENDAR

Moved by: Langer
Second by: Westra
Action: Failed by voice vote.

HB 1068: adopt the South Dakota Nonprofit Corporation Act.

Presented by: Tom Barnett, State Bar of South Dakota
Proponents: A.J. Franken, Office of the Governor
Margo Northrup, South Dakota Association of Rural Water Systems

MOTION: DO PASS HB 1068 AS AMENDED

Moved by: Mickelson
Second by: Peterson (Kent)
Action: Prevailed by roll call vote. (12-0-1-0)

Voting Yes: Gibson, Haugaard, Hunt, Johns, Killer, Langer, Latterell, Peterson (Kent), Russell, Westra, Stevens, Mickelson

Excused: DiSanto

MOTION: AMEND TITLE OF HB 1068

1068rta

On page 1, line 1, of the printed bill, delete everything after "Act to" and insert "revise provisions related to the conversion of nonprofit corporations.".

Moved by: Mickelson
Second by: Westra
Action: Prevailed by voice vote.

MOTION: PLACE HB 1068 ON CONSENT CALENDAR

Moved by: Langer
Action: Died for lack of a second.

HB 1088: revise and consolidate certain civil forfeiture provisions.

Presented by: Representative Haggar (Don)

MOTION: DO PASS HB 1088 AS AMENDED

Moved by: Langer
Second by: Hunt
Action: Prevailed by roll call vote. (8-4-1-0)

Voting Yes: Hunt, Langer, Latterell, Peterson (Kent), Russell, Westra, Stevens, Mickelson

Voting No: Gibson, Haugaard, Johns, Killer

Excused: DiSanto

MOTION: ADJOURN

Moved by: Langer
Second by: Peterson (Kent)
Action: Prevailed by voice vote.

Liz Markley
Committee Secretary

Mike Stevens, Vice- Chair